

REMARKS

Without acquiescing to the propriety of the rejections in the Office Action dated December 2, 2003, and the Advisory Action dated March 25, 2004, claim 1 has been amended. Also, claims 2, 5, 8-12, 15, and 17-19 have been canceled per the previous Restriction Requirement and to reduce the official fees required with the present Response. New claims 20-29 have been added. Entry of these amendments, reconsideration of the application and allowance of all claims pending herein is respectfully requested in view of the remarks below. Claims 1, 3, 4, 15, and 20-29 are now pending and under consideration.

Initially, applicant notes that the new grounds of rejection over Magnani, (U.S. Patent No. 6,158,747) were first presented in the final Office Action dated December 2, 2003. Applicant has not yet had the opportunity to address the rejections over Magnani. Further, the amendments made to claim 1 in the previous Response would have been reasonable to have been expected, particularly considering that a variation of this claim language was presented in claim 1 prior to a preliminary amendment thereto. Thus, applicant respectfully requests that the finality of the present Office Action be withdrawn and that the fee for the present Request for Continued Examination be refunded. MPEP § 706.07(a), § 904.

Rejections Under 35 U.S.C. § 102(b):

Claims 1, 3, 4 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Magnani (U.S. Patent No. 6,158,747).

Claims 1 recites a board for downhill skiing which includes a lower gliding surface, a topsheet, and lateral faces. The lower gliding surface includes a sole plate bordered by metal edges. The topsheet is substantially parallel to the lower gliding surface, on either side of a center longitudinal plane of the board. The topsheet includes an underfoot zone which is located in the central longitudinal plane of the board to allow the underfoot zone to receive a binding. The underfoot zone is configured to receive the binding. The lateral faces extend between the metal edges and the topsheet. The lateral faces include recesses which are located in the underfoot zone and below the plane of the topsheet. The recesses are open toward the plane of the topsheet and toward the lateral faces. Bases of the recesses form a slope inclined longitudinally relative to the lower gliding surface and the topsheet.

Magnani discloses a ski having an elastically deformable structure which includes one deformable chamber filled with a damping fluid, and the chamber being in fluid communication with a second deformable chamber and a compensation chamber. As depicted in a cross-sectional longitudinal view in

FIG. 1, springs 44 are located above compensation chamber 36 in an unnamed cavity below the top surface of the ski, bounded by flanks 56 on lateral sides of the ski, upper element 52, and compensation chamber 36. However, as depicted in FIG. 5, which is a cross-sectional transverse view of the central longitudinal portion of the ski, flanks 56 do not include recesses, nor any recesses which are open toward the plane of the topsheet or toward the lateral faces. Instead, as depicted in FIG. 5, the cavity in which springs 44 are located is bounded by flanks 56, compensation chamber 36 and upper element 52 of the ski, but there are no recesses in the lateral portions or the top portions of such ski, which is in contrast to the recitation in claim 1 of the present application of lateral faces having recesses located below a plane of the topsheet and such recesses being open toward the plane of the topsheet and toward the lateral faces.

Merriam-Webster's on-line dictionary (see www.m-w.com) defines "recess" in several ways (copy attached as Appendix A) with the most appropriate being an indentation. This definition is appropriate in view of the description on page 6 which describes the recesses as forming hollowed zones inside lateral faces which are delimited by three surfaces which include a vertical first surface 15, an inclined base 15, and a portion 17 connecting the rear of the recess to a topsheet. Magnani does not disclose an indentation or recess but instead discloses a cavity receiving springs which is bounded by continuous solid surfaces. Thus, Magnani cannot disclose a recess which is open toward a plane of a topsheet, and toward lateral faces of a ski, since the cavity disclosed therein is not open at all, and instead is bounded by the portions of the ski described above.

Also, the Office Action alleges that lateral faces having recesses are disclosed in FIGS. 3-4, 7, 9-10, 21-22, and 24-25. However, these figures do not disclose an underfoot zone located in a central longitudinal plane of a ski, nor such an underfoot zone configured to receive a binding, as recited in claim 1 of the present application. Instead, these figures depict cross-sections which are obviously outside such an underfoot zone. As described in the first paragraph of column 3 of Magnani, a binding is intended to be fit to a central portion of the ski above compensation chambers 36. Thus, the figures alleged in the Office Action to disclose recesses in an underfoot zone are not located in such an underfoot zone, because they are not located in the central portion of the ski above compensation chambers 36. Also, even if these figures did depict cross-sections of an underfoot zone, the hollows or cavities depicted therein are not open toward a plane of the topsheet or open toward lateral faces of a ski, because they are bounded by upper element 52 and flanks 56.

The Advisory Action alleges that FIGS. 9-27 disclose lateral faces having recesses. These figures disclose cavities or hollows of a ski in cross-section, but do not disclose such hollows or cavities being open toward a topsheet or lateral face of a ski. Instead, the cavities disclosed therein are bounded by at

least upper element 52 and flanks 56. Further, the description of the drawings section describes FIGS. 9-14 as being transverse sections corresponding to those of FIGS. 3-8 but relating to a ski with a different structure. In this case, FIGS. 11 and 14 may relate to an underfoot zone for receiving a binding, since they correspond to FIGS. 5 and 8, which depict cross-sections of underfoot zones of FIGS. 1-2. As is evident from FIGS. 11 and 14, the cavity disclosed therein is not open toward the plane of a topsheet nor toward lateral faces. Instead, the cavity disclosed therein is bounded by top and side surfaces thereof. Also, FIGS. 9, 10, 12 and 13 depict cross-sections outside an underfoot zone since they correspond to FIGS. 3-4 and 6-7 which are obviously outside the underfoot zone upon reviewing FIGS. 1-2. Thus, even if the vertical indentations or other irregularities in the surfaces disclosed in these figures were considered to be recesses, these figures disclose cross-sections which are outside an underfoot zone which is located in a central longitudinally plane of a ski and configured to receive a binding, as recited in claim 1. FIGS. 15 and 16 do not include any cavities or recesses in a binding receiving portion thereof.

FIGS. 17-18 relate to a snowboard which has different properties than a ski due to the different direction of a user's foot relative to a direction of travel. Further, the cross-section depicted in FIG. 18 does not disclose an underfoot zone for receiving a binding, nor does it depict recesses which are open toward a plane of a topsheet or toward lateral faces of a ski. Further, the cavities depicted in FIGS. 21 and 22 are not open toward a plane of a top sheet nor toward lateral faces of a ski. Instead, the cavities are bounded by side walls and a top surface of a snowboard. Further, there is no disclosure of such cavities being located in an underfoot zone for receiving a binding. FIGS. 23-27 depict platforms or other devices designed for attachment to a top surface of a ski. Thus, these figures cannot disclose an underfoot zone of a ski nor recesses located in such an underfoot zone, since they depict platforms or other devices which are attachable to a ski, and not a ski itself.

Accordingly, because Magnani does not identically disclose the features of claim 1 of the present application, e.g., recesses which open toward a plane of a topsheet and toward lateral faces of a ski, this reference cannot anticipate this claim. Thus, claim 1 is thus believed to allowable, along with the dependent claims which are believed to be allowable for the same reasons and for their own additional features.

Also attached as Appendix B are several pages from a catalog entitled "Nordic Alpine" by Rossignol dated 2002-2003 and several pages from a second catalog entitled "Alpine Nordic" by Rossignol dated 2003-2004, attached as Appendix C. These pages illustrate the commercial embodiment of the board recited in claim 1. It is also possible to forward a ski embodying a commercial embodiment of the board recited in claim 1 if it would be helpful to the examination of the present application.

Species Election:

Applicants respectfully reasserts that upon allowance of any generic claim, all claims previously depending thereon shall be considered regardless of whether such dependent claim reads upon the elected species.

CONCLUSION

It is believed that the application is in condition for allowance, and such action is respectfully requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, the Examiner is invited to telephone the undersigned attorney at the telephone number provided.

Respectfully submitted,



Victor A. Cardona, Esq.
Attorney for Applicants(s)
Registration No. 44,589

Dated: April 29, 2004

HESLIN ROTHENBERG FARLEY & MESITI, P.C.
5 Columbia Circle
Albany, New York 12203
Telephone: (518) 452-5600
Facsimile: (518) 452-5579